

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:05-CR-163

v

Hon. ROBERT HOLMES BELL

ERIC LEE GUY,

Defendant.

ORDER OF SUBSTITUTION OF COUNSEL

Attorney William Hankins, Jr. of Lansing, Michigan, has twice appeared in court on behalf of defendant Eric Lee Guy. He first appeared for defendant's initial appearance on July 21, 2005. At that time he indicated he was making a limited appearance because he was still working out arrangements with Mr. Guy and his family to be retained.

On July 26, 2005, counsel again appeared on behalf of Mr. Guy at the arraignment. On this occasion it appears that Magistrate Judge Ellen C. Carmody specifically inquired as to whether counsel was now representing the defendant and counsel indicated that he was. Under the local court rule, an attorney appears either by filing a pleading or other paper, or by acknowledging in court that the attorney acts in the proceeding on behalf of a party. W.D.Mich. LCrR 57.3(d). Withdrawal of an attorney who has appeared for a client may be accomplished only by leave of court.

Id.

On August 1, 2005, counsel sent a letter to Magistrate Judge Carmody stating that, for a variety of reasons, "I cannot continue to represent the Defendant in this matter and have not and

will not be filing an Appearance.” He further stated that since he had not filed an appearance in this matter, he felt there was no need for a formal substitution. When the latter occurs, no further filing is necessary.

Since withdrawal of an appearance requires a request to the court, it is not sufficient for counsel to simply announce he is no longer appearing on behalf of his client. In the present case, however, the court has spoken with all those concerned, on the record in open court (counsel appearing by telephone), and finds that the attorney-client relationship between counsel Hankins and the defendant has completely broken down and that neither wishes to continue it. Accordingly, in this instance the court will treat counsel’s letter as a motion to withdraw as counsel. The motion is GRANTED and with the concurrence of all concerned, Attorney Daniel R. Fagan is hereby substituted as counsel for the defendant for all further proceedings in this matter.

IT IS SO ORDERED.

Dated: August 19, 2005

/s/ Hugh W. Brenneman, Jr.

Hugh W. Brenneman, Jr.
United States Magistrate Judge